

27 March 2018

To interested parties:

Scope for our study of mobile telecommunications markets in New Zealand

1. The purpose of this paper is to confirm the scope of our section 9A study into mobile telecommunications markets in New Zealand.

Purpose of this study of mobile telecommunications markets in New Zealand

2. We are undertaking a study of mobile telecommunications markets in New Zealand (study), to gain a better understanding of how mobile markets are currently performing and developing, and to consider how the mobile landscape may evolve in the future.

Scope of this study

3. In October 2017, we published the Terms of Reference (ToR), seeking feedback on the proposed scope of this study. Our proposed scope was to:
 - 3.1 identify consumer preferences and how they appear to be evolving;
 - 3.2 identify how mobile providers are responding to:
 - 3.2.1 that evolution in consumer preferences; and
 - 3.2.2 technological shifts in how mobile services can be delivered;
 - 3.3 consider the impact of these trends on the performance and development of mobile services, including any obstacles to market development and any current or emerging competition effects; and
 - 3.4 consider, to the extent we might identify any relevant issues, how our regulatory tools could be applied for the long term benefit of end-users.
4. Submissions on the ToR were generally supportive of our intention to understand the impact of future trends on the mobile markets. However, some submitters also highlighted potential issues with the current structure of the mobile markets, which in their view should form part of this study.
5. We agree with submissions that in order to better understand future trends, we also need to better understand the current structure and performance of the mobile markets, and the resulting outcomes for consumers.

6. We confirm that our scope will cover both current and future aspects of the mobile markets. Our study will include the following:
 - 6.1 looking at the current structure and competitiveness of the mobile markets. This will include considering:
 - 6.1.1 key events that have occurred in and around the mobile markets in New Zealand up to the present day (eg, 2Degrees entry, 4G deployments, MTAS, and Number Portability);
 - 6.1.2 the associated consumer outcomes (eg, availability, service quality and pricing performance); and
 - 6.1.3 the existence of any competition issues;
 - 6.2 identifying upcoming key events (eg, 5G deployment and spectrum allocation, and widespread eSIM), and how these events, given what we have seen from the past, might play out in terms of:
 - 6.2.1 competition (eg, physical infrastructure vs MVNOs); and
 - 6.2.2 consumer outcomes;
 - 6.3 seeking to identify and understand any potential obstacles to market development that might be present currently, or may emerge from upcoming events, such as:
 - 6.3.1 the significance of barriers to entry for new mobile network operators or mobile virtual network operators;
 - 6.3.2 the significance of barriers to expansion for existing mobile network operators;
 - 6.3.3 the existence of, or potential for, anti-competitive behaviour; and
 - 6.3.4 the significance of transaction costs, information transparency, and other factors affecting consumers' ability to benefit from competition in the mobile markets.

Outcomes of this study

7. This study will help us build an evidence base so that we can track relevant trends and identify whether there are any current or potential barriers to competition delivering benefits for consumers in the mobile markets.
8. As a result of this study, we expect to be better placed to:
 - 8.1 identify areas in the mobile markets that might require more/less focus on an ongoing basis;

- 8.2 inform policy makers, industry and consumers of the performance of the mobile markets on an ongoing basis through regular monitoring and reporting of market performance and development;
- 8.3 consider whether any regulatory measures (including de-regulation) may be appropriate; and
- 8.4 ensure that any future market interventions, if required, are appropriate and proportionate.

Legal framework for our study

- 9. We are conducting this study under section 9A of the Telecommunications Act 2001 (Act). Section 9A sets out that we:
 - 9.1 must monitor competition in telecommunications markets and the performance and development of telecommunications markets;
 - 9.2 may conduct studies into any matter relating to the telecommunications industry or the long-term benefit of end-users of telecommunications services in New Zealand; and
 - 9.3 must make available reports, summaries and information about the things referred to in paragraphs 9.1 and 9.2 above.
- 10. We use section 9A studies to gather information about, and develop our understanding of, telecommunications markets.
- 11. The findings of a section 9A study may lead us to consider whether regulatory changes may be appropriate. Further investigations may include us considering the amendment or removal of existing regulations, or the introduction of new regulations.

Process for the completion of this study

- 12. Following this scoping paper, we will publish an issues paper mid-year. The issues paper will expand on selected aspects of the scope set out in paragraph 6, and seek feedback from interested parties.
- 13. We will also be working with MBIE to incorporate the results from their consultation on 5G spectrum allocation.

14. Once we have assessed the responses to the issues paper, we will define the next steps (including whether we need to publish a subsequent issues paper).

A handwritten signature in black ink, appearing to read 'S. Gale', with a stylized flourish at the end.

Dr Stephen Gale
Telecommunications Commissioner